REMARKS

In the Office Action mailed February 28, 2007 from the United States Patent and Trademark Office, the Examiner objected to the drawings for containing two drawings labeled Figure 11. The Examiner rejected claims 1-9 and 23-26 under 35 U.S.C. § 101 and under 35 U.S.C. § 112, first paragraph, because the claimed invention is not supported by either a specific and substantial asserted utility or a well established utility and that the disclosure fails to show how to use the invention for the same reason. The Examiner also rejected claims 1-9 and 23-26 under 35 U.S.C. § 112, first paragraph, as failing to comply with the written description requirement.

Objection to the Drawings:

Applicants have submitted herewith a replacement drawing sheet containing Figure 12 that overcomes the objections made by the Examiner. Applicants hereby respectfully request withdrawal of the objection.

Rejections under 35 U.S.C. § 101 and 35 U.S.C. § 112, First Paragraph, Utility Requirement:

In the Office Action, the Examiner rejected claims 1-9 and 23-26 under 35 U.S.C. § 101 and under 35 U.S.C. § 112, first paragraph, indicating that the claims are drawn to a broad system for diagnosis and treatment and indicated that the asserted utility is not specific as it is not drawn to a specific disease, ailment or condition. Applicants recognize that the claimed invention covers diagnosis and treatment of a broad range of maladies. In making the rejection,

however, the Examiner appears to have completely ignored the disclosure provided by the Figures as filed.

For example, claim 1 requires: "a filter testing function that utilizes customized filters to stress said meridian network to reveal manifested and latent maladies in said patient and to automatically load pre-determined products/remedies identified as effective against said maladies revealed by said customized filters." Thus the filter testing function as claimed is used to reveal the maladies and to pre-load products and remedies. One of skill in the art would then look to the specification and figures to understand what maladies might be revealed by the claimed filter testing function.

Figures 11, 12, 14 and 15 show a partial list of such filters, revealing specific utilities of the claimed invention in full compliance with the utility requirement. Reading down that list provides:

Allergen Sensitivity
Bacterial Influence
Botanical Imbalance
Cell Salt Imbalance
Chemical Toxicity
Circulatory Disturbances
Constitutional Weakness
Digestive Maladies
Drainage Block
Fatty Tissue Disturbance
Food Sensitivities
Fungal/Mycotoxin Influence
Heavy Metal Burden
Homeopathic Similium
Hormonal Imbalance
Immune System
Inflammatory Issues
Metabolic Disturbances

Miasms
Musculo/Skeletal Weakness
Neurological Imbalance
Parasite Influence

Figure 17 shows the continuation of the list of filters, identifying further maladies for treatment:

Phenolic Sensitivities
Respiratory Distress
Sarcode Weakness
Skin Afflictions
Sleep Disturbances
Thyroid Disturbance
Trace Element Deficiency
Urinary Disorders
Vaccination Disturbance
Vertebral Misalignment
Viral Influence
Female Conditions
Male Conditions
Geriatric Conditions
Pediatric Conditions
Amino Acid Deficiencies
Enzyme Deficiencies
Fatty Acid Deficiencies
Mineral Deficiencies
Vitamin Deficiencies

From this listing, one of skill in the art would readily appreciate numerous specific and substantial utilities, namely, specific diseases, ailments, or conditions disclosed as being diagnosed and treated. As set forth in the amendment to the specification above on page 2, the specification has been amended to include the listing of filters shown in the Figures. The following paragraph from the specification clearly shows a specific and substantial utility for the invention associated with each of the listed filters:

> Similar to Figure 11, Figure 12 illustrates a screen-shot of an exemplary filter testing environment, wherein, upon testing, the selected filter 386 returned a measured resistance value of 50 as indicated by graphical reading indicator 242 in

> point status indicator field 212, which is within scan zone 222, thus indicating the patient is free of the malady corresponding to selected filter 386. As such, testing of selected filter 386 is finished as indicated. Figure 12 also illustrates selected stable reference point 252 from stable reference points list or field 250 and an amplification 248 of neutral.

(Page 41, lines 8-14 of the specification as filed, emphasis added.)

The amendment to the specification is clearly supported by the Figures as filed, and the amendment to the specification clearly sets forth a specific and substantial asserted utility. Applicants also submit herewith a copy of a recent study studying the effectiveness of a device embodying the claimed invention, the Jeppsen-Osguthorpe Study. E. Alan Jeppsen, M.D. & Steven G. Osguthorpe, N.D. Jeppsen-Osguthorpe Study: Effectiveness of the Asyra (EDS) in assessing sub-physiologic Thyroid levels (free T_3 of less than 4.0) in women 35 to 65 years of age, August 2006. A summary of the study is available at http://www.optimalhormones.com/research.html and particularly at http://www.optimalhormones.com/study.html, and contact information for ordering copies of the full study included herewith is available at http://www.optimalhormones.com/orderstudy.html (last accessed on May 25, 2007).

The study clearly shows the effectiveness of the claimed invention at detecting latent ("sub-physiologic") thyroid conditions (one of the filters listed in the Figures as filed and set forth above). The conclusion of the study is clear as to the specific utility of the claimed invention:

> This study has demonstrated the effectiveness of ElectroDermal screening with both the clinical and laboratory diagnosis in 500 patients with sub-physiologic hypothyroid have been compared to 100 normal age adjusted control subjects. The correlation between the EDS measured abnormalities, using standard

> deviation (SDI) criteria and patients with sub-physiologic hypothyroid state was statistically significant at 99.5% with a P<0.005. Thus EDS has demonstrated its effectiveness, when utilized by a skilled technician, to be a valuable tool for the analysis and diagnosis of sub-physiologic hypothyroid levels.

(Study, page 38, last paragraph, emphasis added.) In light of the clearly-disclosed specific and substantial utility contained in the application as filed and the additional evidence of such submitted herewith, Applicants respectfully request removal of the rejections of claims 1-9 and 23-26 under 35 U.S.C. §§ 101 and 112, first paragraph, for lack of a specific and substantial utility.

Rejections under 35 U.S.C. § 112, First Paragraph, Written Description Requirement:

In the Office Action, the Examiner rejected claims 1-9 and 23-26 under 35 U.S.C. § 112, first paragraph, as failing to comply with the written description requirement. Specifically, the Examiner indicated that the specification does not describe treatment of any malady within a patient. Additionally, the Examiner indicated that the specification lacked "satisfactory disclosure of a 'representative number'" of species of malady being treated. Finally, the Examiner relied on the Ernst reference as suggesting that one cannot treat certain maladies using the methods claimed.

Applicants respectfully traverse the rejection. As set forth in more detail above, the application as filed contained an extensive listing of filters corresponding with maladies to be diagnosed and treated (i.e. and extensive listing of species). Forty-two such filters were listed in the application as filed. Additionally, the claims as filed provide their own written description encompassing the scope of the claims as they have been amended. As M.P.E.P. § 2163 sets

forth, "There is a strong presumption that an adequate written description of the claimed invention is present when the application is filed. (Citing *In re Wertheim*, 541 F.2d 257, 263, 191 USPQ 90, 97 (CCPA 1976).) This presumption, when combined with the extensive listing of filters provided in the application as filed clearly shows that Applicants have complied with the written description requirement.

The Ernst reference cited by the Examiner does not rebut Applicants' showing of compliance with the written description requirement. Specifically, the reference cited by the Examiner does not refer to any method similar to Applicants' claimed method as set forth in the claims. The Examiner has referred to two sentences of Ernst that are provided herein in their entirety: "Thus the majority of these trials suggests that the effects of acupuncture could after all be mostly due to a placebo response." (Ernst, page 131, column 2, paragraph 2, last sentence.) "For smoking cessation, tinnitus and weight loss the evidence is usually regarded as negative." (Ernst, page 129, column 1, paragraph 1, lines 6-8, discussing the clinical effectiveness of acupuncture.) As may clearly be seen from the sentences cited by the Examiner, the Ernst reference expresses some doubt about the clinical effectiveness of acupuncture. Applicants, however, have not claimed a method that employs acupuncture, so Ernst is of no significance in showing that Applicants did not have possession of the claimed invention.

In light of the above, Applicants respectfully submit that the Examiner has not satisfied the Examiner's burden of showing by a preponderance of the evidence that Applicants did not have possession of the claimed invention at the time of filing. (M.P.E.P. 2163.04) Applicants

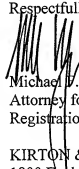
therefore respectfully request removal of the rejections of claims 1-9 and 23-26 under 35 U.S.C. § 112, first paragraph, as failing to comply with the written description requirement.

CONCLUSION

Applicants submit that no new matter has been added and that the claims are now in condition for allowance. Accordingly, Applicants request favorable reconsideration. If the Examiner has any questions or concerns regarding this communication, the Examiner is invited to call the undersigned.

DATED this 25 day of May, 2007.

Respectfully submitted,



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